

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/3/2021

-----X
GEORGE AIRDAY,

Plaintiff,

-against-

THE CITY OF NEW YORK and KEITH
SCHWAM,

Defendants.
-----X

14-CV-8065 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on February 1, 2021, the parties submitted a Joint Pretrial Order;

WHEREAS Plaintiff describes his equal protection, selective enforcement claim as involving three distinct incidents, including “when the Defendants removed him from the Scofflaw Program in January of 2012,” *see* Dkt. 209;

WHEREAS in opposing Defendants’ first motion for summary judgment before Judge Sweet, Plaintiff argued specifically “that his suspension as a City Marshal in January 2012 and his removal as a City Marshal in December 2013 violated his rights to the equal protection of the law,” *see* Dkt. 82 at 25; and


WHEREAS in denying Defendants summary judgment on Plaintiff’s selective enforcement claim, Judge Sweet, seemingly in reliance on Plaintiff’s own description of his claim, described Plaintiff’s selective enforcement claim by stating that “Plaintiff alleges that his suspension as City Marshal in January 2012 and his removal in December 2013 violated his constitutional right to equal protection . . . ,” *see* Dkt. 92 at 54;

IT IS HEREBY ORDERED that, not later than **May 10, 2021**, in a letter brief not to exceed 5 pages, Plaintiff must show cause why — given his argument in support of his selective

enforcement claim before Judge Sweet — he has not abandoned any selective enforcement claim premised on his termination from the Scofflaw Program in 2012. Plaintiff should note that the Court is *not* ordering him to show cause why all evidence regarding his termination from the Scofflaw Program should be excluded; such evidence could be admissible as evidence of damages — assuming there is proof that Plaintiff's termination from the Scofflaw Program was the natural consequence of Defendants' actions and the termination, as opposed to the City's adoption of the Paylock program, caused him financial harm. Defendants must respond in a letter brief not to exceed five pages not later than **May 14, 2021**.

SO ORDERED.

Date: May 3, 2021
New York, NY



VALERIE CAPRONI
United States District Judge